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AUG 1 5 2006

OFFICE OF PETITIONS

In re Application of Kevin Irish	:	
Application No. 10/816,599	:	Decision on Petition
Filing Date: April 5, 2004	:	
For: "Mini-Sweep" and Its Components	:	

This is a decision on the petition filed June 20, 2006, under 37 CFR 1.181 to withdraw the holding of abandonment of the above-identified application.

The petition is **dismissed**.

Facts:

A final Office action was mailed November 29, 2005.

The Office action set an extendable shortened statutory period for reply of three (3) months. In other words, absent payment for an extension of time, a reply was due on or before February 28, 2006.¹

The Office failed to receive a reply.

A Notice of Abandonment was mailed June 13, 2006.

The instant petition was filed June 20, 2006. The petition asserts a reply was filed with the Office on February 29, 2006.

Discussion:

The Office need not determine if the reply was a proper reply to the final Office action because the reply was untimely.

¹ MPEP 710.01(a) states,

The actual time taken for reply is computed from the date stamped or printed on the Office action to the date of receipt by the Office of applicant's reply. No cognizance is taken of fractions of a day and applicant's reply is due on the corresponding day of the month 6 months or any lesser number of months specified after the Office action. For example, reply to an Office action with a 3-month shortened statutory period dated November 30 is due on the following February 28 (or 29 if it is a leap year), while a reply to an Office action dated February 28 is due on May 28 and not on the last day of May. Ex parte Messick, 7 USPQ 57 (Comm'r Pat. 1930).

The reply would only be timely, absent payment for an extension of time, if the reply was filed on or before February 28, 2006. Petitioner does not assert the reply was filed on or before February 28, 2006. Therefore, the petition must be dismissed.

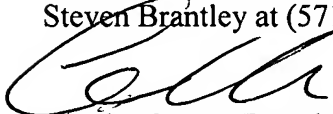
Any request for reconsideration must be submitted within TWO (2) MONTHS from the mail date of this decision. No further petition fee is required for the request. Extensions of time under 37 CFR 1.136(a) are NOT permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.181."

Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop Petition
 Commissioner for Patents
 P.O. Box 1450
 Alexandria, VA 22313-1450

By facsimile: (571) 273-8300
 Attn: Office of Petitions

Telephone inquiries regarding this communication should be directed to Petitions Attorney Steven Brantley at (571) 272-3203.



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